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March 25, 2013

**BY ELECTRONIC MAIL**

The Honorable Paul A. Engelmayer  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 660  
New York, New York 10007  
[EngelmayerNYSDChambers@nysd.uscourts.gov](mailto:EngelmayerNYSDChambers@nysd.uscourts.gov)

Re: *Themis Capital v. Democratic Republic of Congo*,  
Civ. No. 09-cv-01652 (PAE) (S.D.N.Y.)

Dear Judge Engelmayer:

On behalf of the Defendants the Democratic Republic of the Congo (the “DRC”) and the Central Bank of the Democratic Republic of the Congo (the “Central Bank”), we are writing to request the Court’s guidance with respect to the submission of courtesy copies of the motion papers filed in connection with the Defendants’ Motion for Leave to Amend their Answer (ECF Nos. 132-34, 139-40), and to request the Court’s permission to file a reply brief.

Pursuant to Your Honor’s Individual Practices, the Defendants are required to submit courtesy copies of the motion papers at the time the reply brief is served. Pursuant to Local Rule 6.1(b)(3) and Federal Rule 6(d), the Defendants’ reply brief would be due today, March 25. During the March 6, 2013 teleconference, however, Your Honor stated that a reply brief was not authorized at this time and that the Defendants should wait to submit one until the Court had an opportunity to review the Plaintiffs’ opposition and determine whether it would call for a reply. Hr’g Tr. at 27:18-28:5, Mar. 6, 2013.

Accordingly, the Defendants seek to clarify if and when they should submit courtesy copies of the motion papers and further request the Court’s permission to file a reply brief. A reply brief would provide the Defendants with an opportunity to respond to the arguments set forth in the Plaintiffs’ opposition brief, which, we respectfully submit, lack an adequate factual or legal basis. Moreover, through a reply brief, the Defendants would have an opportunity to demonstrate how recent nonparty document productions support their argument that the Plaintiffs should be required to prove through adequate evidence the complete chain of title to the decades-old debt at issue; indeed, the document production received to date reflects



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substantial confusion among the servicing and agent banks to the 1980 Refinancing Agreement as to the identities of proper title holders and the amounts of debt outstanding.<sup>1</sup>

The Defendants would welcome the chance to demonstrate in full the insufficiency of the Plaintiffs' argument that the recitations of the chain of title in the deeds of assignment that they obtained from their predecessors—which are themselves incomplete—are adequate to establish the Plaintiffs' standing. Therefore, we respectfully request that the Court grant the Defendants the opportunity to prepare and file a reply brief, which will provide the Court with a complete set of arguments on which to decide the pending motion to amend.<sup>2</sup> However, at very least, we request the Court's guidance with regard to the submission of courtesy copies of the motion papers that have already been filed and docketed through the ECF system (ECF Nos. 132-34, 139-40).

Respectfully submitted,

**DLA Piper LLP (US)**

/s/

Douglas W. Mateyaschuk

cc:  
All Counsel Of Record

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<sup>1</sup> Pursuant to Section 1.F of Your Honor's Individual Rules and Practices, please note that the nonparty documents referred to herein have been marked confidential by the producing parties and are subject to the Protective Order entered in this matter on December 4, 2012 (ECF No. 102).

<sup>2</sup> As we explained during a conference with the Court in January, the African Legal Support Facility ("ALSF") is currently paying for the costs of the defense of this litigation due to the dire economic circumstances of the DRC—a designated Highly Indebted Poor Country (*see* Debt Relief Under the Heavily Indebted Poor Countries (HIPC) Initiative, International Monetary Fund, Jan. 10, 2013, available at <http://www.imf.org/external/np/exr/facts/hipc.htm>). Accordingly, absent permission from the Court for the Defendants to file a reply brief, we have not depleted scarce resources to prepare one. However, if permission to file a reply brief is granted, the Defendants are prepared to move quickly to draft and file their submission.